

тельстве ряда государств.[2] Следует отметить, что такие законы существуют, например, в Ирландии, Великобритании, Германии, Пакистане, Афганистане. Из-за не четкости формулировок и жестокости наказания (в мусульманских государствах) данные законы представляются на сегодняшний день своеобразным оружием против прав человека.

Принимая во внимание все вышеизложенное, становится очевидным, что для того, чтобы утвердиться в международном праве, запрет на диффамацию религии должен пройти трансформацию, из социальной концепции в правовую норму. В процессе этого преобразования необходимым является разрешение всех разногласий и формирование данного запрета на основе межгосударственных и межконфессиональных отличий, в согласованности с международными стандартами прав и свобод человека.

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## **INTERNATIONAL STANDARTS AND MECHANISM OF JOURNALISTS' RIGHT PROTECTION**

In the conditions of informational society where everyone may get any information and anyone may share it, development of journalism takes worldwide character. Article on problem of Arabic Spring written by Pakistan journalist will be read all over the world and answered by famous American magazine in 3 days. Global problems and critical situations are always discussible. Opinions, thoughts and ideas differ

from person to person, from country to country: supportive, critical, negative. We call it «freedom of expression». But realization of this right often turns dangerous exactly for journalists. Especially if the discussed problem is serious, especially if it has political character, especially if it takes the varnish off.

That new information platforms such as Twitter and Facebook helped journalists and other citizens break Hosni Mubarak's information blockade has been the source of legitimate excitement. But despite the triumphs of the Arab Spring, censorship is alive and well. In fact, some of the biggest stories of 2011 might have gone uncovered or under-covered because of effective censorship. These include rural unrest in China; the power struggle in Iran; the relationship between militants, Al-Qaeda, and the Pakistani intelligence service; political instability in Ethiopia; and the bloody battles between rival drug cartels in Mexico.

Journalists who sought to cover these and other stories faced violence and repression. In Pakistan, investigative reporter Saleem Shahzad was abducted and murdered in May after he exposed links between the country's intelligence services and Al-Qaeda. In Nuevo Laredo, Mexico, drug traffickers kidnapped, murdered, and decapitated journalist María Elizabeth Macías Castro after she tried to use social media as an end-run around their violence-imposed censorship. In Addis Ababa, Ethiopia, several journalists, including two Swedes, were jailed on terrorism charges in retaliation for their coverage of separatist and opposition groups.

Journalists and other front-line news-gatherers operate in a legal void. While the right of people everywhere to «seek and receive information through any media and regardless of frontiers» is enshrined in Article 19 of the Universal Declaration of Human Rights and other international legal instruments, the reality is that there are few effective legal mechanisms to fight censorship on an international level.

The next legal instruments considering protection of rights of journalists:

European Convention on Human Rights in article 10 establishes the right to freedom of expression. «Everyone has the right to freedom of expression this right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises. The exercise of these freedoms, since it carries with it duties

and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or the rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.»

European Convention on Transfrontier Television. Article 10 states « the Parties, in the spirit of co-operation and mutual assistance which underlies this Convention, shall endeavor to avoid that program services transmitted or retransmitted by a broadcaster or any other legal or natural persons within their jurisdiction, within the meaning of Article 3, endanger media pluralism.»

Recommendation 748 (1975) of Parliamentary Assembly of Council of Europe the role and management of national broadcasting consolidates the freedom of expression, with no governmental or institutional preliminary censorship, but subject to the following qualifications: a) the right of reply; b) public accountability of producers for their productions before some organization, in the first instance predominantly parliamentary, democratically representative of society; c) accountability of producers, rather than institutions, before the laws in force in any particular state.

Resolutions of European Ministerial Conference on Mass Media Policy (1986, 1988, 1991, 1994, 1997, 2000, 2005) establish principles of activity of journalists in democratic society, guarantee the independence of public service broadcasters against political and economic interference, emphasize importance of Journalistic Freedoms and Human Rights.

On 27 of September, 2012, The United Nations Human Rights Council affirmed for the first time the importance of journalist safety as a fundamental element of freedom of expression, the International Press Institute (IPI) announced. The 47-member body passed by consensus a resolution sponsored by the Republic of Austria that called on states to «promote a safe and enabling environment for journalists to perform their work independently» and to fight impunity by ensuring «impartial, speedy and effective investigations» into acts of violence against journalists.

The international level of journalists' rights protection is represented by two international non-governmental organizations. The first one is the Committee to Protect Journalists. By publicly revealing abuses against the press and by acting on behalf of imprisoned and threatened journalists, CPJ effectively warns journalists and news organizations where attacks on press freedom are occurring. CPJ organizes vigorous public protests and works through diplomatic channels to effect change. CPJ publishes articles and news releases; special reports; and Attacks on the Press (special web-project) the most comprehensive annual survey of press freedom around the world. CPJ has full-time program coordinators monitoring the press in Africa, the Americas, Asia, Europe and Central Asia, and the Middle East and North Africa. They track developments through their own independent research, fact-finding missions, and firsthand contacts in the field, including reports from other journalists. CPJ shares information on breaking cases with other press freedom organizations worldwide through the International Freedom of Expression Exchange, a global e-mail network.

The second organization is the International Freedom of Expression Exchange network (IFEX). IFEX was found when a dozen leading free expression organizations (including CPJ) came together to create a coordinated mechanism to rapidly expose free expression violations around the world. IFEX runs the world's most comprehensive free expression information service through its daily Alerts, weekly IFEX Communiqué newsletter, free expression headlines Digest and website – [www.ifex.org](http://www.ifex.org). Thousands of subscribers receive information via e-mail. Highly publicized alerts have helped free journalists, writers and free expression advocates from detention, or even helped save their lives. IFEX assists members to work strategically to defend and promote free expression within regions by providing advice, training, financial and technical support to maximize strengths and avoid duplication of efforts, and shares lessons learned between regions through facilitated skills exchanges across the IFEX community.

The European Court on Human Rights considered and developed the huge raw of precedents on journalists' rights protection. The most famous cases are *The Sunday Times v. the United Kingdom* from 1979, *Casado Coca v. Spain* from 1994, *Sener v. Turkey* from 2000, 18 July.

The further regulation of journalists' rights protection requires a broad global coalition against censorship that brings together

governments, the business community, civil society organizations, and the media. These powerful constituencies must unite in support of freedom of information, pressing international organizations, including intergovernmental groups such as the Organization of American States and the Council of Europe, as well as the United Nations, to create a legal framework to ensure that press freedom and freedom of information are respected in practice. Human rights and press freedom organizations should look for opportunities to adjudicate press freedom cases at the international level in order to build a body of global precedent.

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### **ПРИНЦИП «РІВНОСТІ ВИХІДНИХ МОЖЛИВОСТЕЙ» У ПРАКТИЦІ ЄВРОПЕЙСЬКОГО СУДУ З ПРАВ ЛЮДИНИ**

Справедливість – один з найважливіших принципів правової держави, який реалізується як у законодавчій, так і в правозастосовній діяльності. Ідея справедливості реалізується насамперед через нормативне закріплення права на справедливий судовий розгляд. Це право встановлене як на національному, так і на міжнародному рівнях. Зміст права на справедливий судовий розгляд найбільш визначено та змістовно закріплено у статті 6 Європейської конвенції про права та основні свободи людини. Пункт 1 статті 6 стосується як цивільного, так і кримінального судочинства, тоді як пункти 2 та 3 статті 6 застосовуються виключно до кримінальних справ. Однак, даючи визначення справедливості у вузькому значенні, Європейський суд з прав людини у своїй практиці виділяє такі вимоги, які чітко не вказані в п.1 статті 6, наприклад, принцип рівності сторін у змагальному процесі – «принцип рівності вихідних можливостей».

Ряд вчених, наукових дослідників, у коло інтересів яких потрапляють окремі питання захисту прав людини, розглядають даний принцип в контексті права на справедливий судовий розгляд. Серед них Рабінович П. М., Пашук Т.І., Шевчук С, Трегубов Е. Л., Ушакова Л. В., Еваак Л, Донна Гом'єн.,